

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3674 of 2014

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Md. Taslimuddin, son of Late Amjad Ali, Ex-Member of Parliament,
resident of village - Sisauna, P.O. and P.S. Jokihat, District - Araria,
presently residing at Ward No. 15, P.O. and P.S. Araria, District -
Araria

.... Petitioner

Versus

1. The Union of India through the Ministry of Urban Affairs and
Employment, Nirman Bhawan, New Delhi
2. The Estate Officer, Assistant Director of Estate, Nirman Bhawan,
New Delhi
3. The Collector, District-New Delhi, 12/1 Jam Nagar House,
Shahjahan Road, New Delhi - 110011
4. The Assistant Collector, District - New Delhi. 12/1 Jam Nagar
House, Shahjahan Road, New Delhi - 110011
5. The Collector, Araria, District - Araria
6. The District Certificate Officer-cum-Sub-Divisional Officer, Araria,
District - Araria

.... Respondents

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Appearance :

For the Petitioner : Mr. S.B.K. Manglam, Advocate

For the Union of India: Mr. S.D. Sanjay, A.S.G.

Mr. Ravinder Kr. Sharma, C.G.C.

For the State : Mr. G.P. Ojha, GP 22

Mr. D.K. Verma, AC to GP 22

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2016

The present writ petition has been filed for
quashing the order dated 20.01.2014 passed by the
Respondent No. 6 in Certificate Case No. 11/2010-11,
whereby the Respondent No. 6 has been pleased to reject the



petition filed by the petitioner challenging the maintainability of certificate case on the ground that it was barred by law of limitation; and for quashing the proceedings of the said Certificate Case No. 11/2010-11 pending in the court of the Respondent No. 6 for which a requisition was filed by the Respondent No. 4 under Section 3(1) of the Revenue Recovery Act, 1890.

2. The brief facts of the case are that Bungalow No. 2, Motilal Nehru Place, New Delhi was allotted to the petitioner when he was elected as a Member of Parliament. In due course, upon the dissolution of the 12th Lok Sabha on 26.04.1999, the allotment of the said Bungalow in the petitioner's name was cancelled with effect from 26.05.1999. It is stated that the petitioner subsequently received two notices, both dated 07.02.2011, issued by the respondent no. 6 under Section 7 of the Bihar & Orissa Public Demands Recovery Act (for short, 'the Act') in connection with Certificate Cases Nos. 11 and 12 of 2010-11 for Rs. 10,26,919/- and Rs. 10,20,303/- respectively.



3. The petitioner had earlier moved this Court in CWJC No. 4910 of 2012 against the certificate proceeding, raising the plea of limitation. The writ petition was disposed of on 16.02.2012, treating the aforesaid letter dated 07.02.2012 issued by the certificate officer as notice issued to the petitioner of the certificate proceeding. Accordingly, the petitioner was directed to appear and file an objection petition under Section 9 of the Act before the Certificate officer to be disposed of in accordance with law. On such objection petition being subsequently filed by the petitioner, the contention of the petitioner was rejected by the Certificate Officer in terms of the order dated 20.01.2014 impugned herein. In the present writ petition, the petitioner has once again sought to question the validity of the proceedings in certificate Case No. 11 of 2010-11 on the ground that the same is barred by limitation.

4. Mr. S.B.K. Mangalam, learned counsel for the petitioner, submits that the issue of limitation was raised before the Certificate Officer in the objection petition filed



under Section 9 of the Act. It was specifically pointed out in paragraph 7 of the said objection petition that the arrears of rent for the Bungalow in question became due on 20.03.2000 and hence, the certificate filed in 2010 by the Certificate Officer was hopelessly barred by limitation. It is thus submitted that the certificate proceedings are illegally being continued against the petitioner.

5. Mr. S.D. Sanjay, learned Additional Solicitor General, relies on the counter affidavit filed on behalf of the respondent nos. 1 to 4 to oppose the writ petition. It is stated that the bungalow was first occupied by the petitioner on 02.07.1996, and after demitting office of Minister on 09.07.1996, he was allowed to retain the accommodation on the basis of payment of flat rate of licence fee as per the rules applicable to Members of Parliament. Thereafter, upon dissolution of 12th Lok Sabha, the allotment of the said Bungalow in the petitioner's name was cancelled with effect from 26.05.1999 and notices were sent to the petitioner. The said Bungalow was, however, not vacated, leading to



initiation of eviction proceedings against the petitioner under the provisions of The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, the 'Eviction Act'), which culminated in the eviction order passed on 10.12.1999. The petitioner was finally evicted from the Bungalow on 21.03.2000 and recovery proceedings for arrears of rent of Rs. 10,26,919/- (R.R.C. for Rs. 6,616/- and D.R.C. for Rs. 10,20,303/-) were initiated. Despite payment orders being issued by the Estate Officer under the Eviction Act, neither were payments made nor was any appeal preferred by the petitioner. Accordingly, on 17.01.2001 certificates were forwarded to the Deputy Commissioner, New Delhi, with a copy to the petitioner, for recovery of the amounts in question as Land Revenue in terms of Section 14 of the Eviction Act. Resultantly, a certificate of recovery under Section 3(1) of the Rent Recovery Act, 1890 came to be issued by the Collector, New Delhi on 05.12.2001 for Rs. 10,26,919/- addressed to the Collector, District Araria, Bihar for recovery as arrears of land revenue against the petitioner.



It is, therefore, submitted that all the actions against the petitioner are legal and valid. The certificate for recovery having been issued in the year 2001 itself, the question of the proceedings being barred by limitation does not arise as the certificate has been forwarded to the Collector, Araria merely for execution. A counter affidavit has also been filed on behalf of the Respondent nos. 5 and 6 on 15.04.2015.

6. Having heard the parties at length and upon careful consideration of the materials available on record, this Court finds the writ petition devoid of merit. It is not in dispute that the petitioner was in occupation of the subject Bungalow and the arrears of rent relate to the periods from 26.05.1999 to 20.03.2000. That the certificate of recovery under Section 14 of the Eviction Act was dispatched on 17.08.2001 and so also the certificate of recovery under Section 3(1) of the Revenue Recovery Act, 1890 was issued by the Collector, New Delhi on 05.12.2001 forwarding the matter to the Collector, Araria, Bihar are facts which have not been refuted by the petitioner and no rejoinder to the

counter affidavit has been filed on behalf of the respondent nos. 1 to 4.

7. In the above view of the matter, it must be held that the proceedings undertaken by the Collector, Araria are nothing but continuation of the certificate proceeding initiated under the Eviction Act in the year 2001 itself. Since the arrears of rent relate to the period upto 20.03.2000, proceedings initiated in the year 2001 were well within time for the purpose of limitation. The proceedings for recovery have been initiated in terms of the Eviction Act and not under the Revenue Recovery Act 1890, the latter being merely a procedural law as held by a Division Bench of this Court in *Nirendra Kumar Bose vs District Magistrate [AIR 1978 Patna 241]*.

8. Significantly, this Court had also not found the petitioner's submissions in CWJC No. 4910 of 2012 worthy of acceptance and had not quashed the proceedings at that stage itself, rather the petitioner had been directed to prefer an objection petition under Section 9 of the Act before the

Certificate Officer.

9. In the result, the continuation of recovery proceedings in Certificate Case No. 11 of 2010-11 against the petitioner is held to be legal and valid. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

B.T/-

AFR/ NAFR	AFR
CAV DATE	N/A
Uploading Date	11.05.2016
Transmission Date	N/A